

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DANIEL THOMAS LANAHAN,

*

Petitioner

*

v

*

Civil Action No. JFM-16-831

TOM LEWIS, et al.,

*

Respondents

*

MEMORANDUM

On March 10, 2016, petitioner Daniel Thomas Lanahan, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. ECF 1. Petitioner challenges his conviction entered in 2002 by the Circuit Court for Carroll County in Case Number K-01-28420. *Id.*, p. 1. Petitioner indicated he was sentenced to a three year term of incarceration. *Id.*

Under 28 U.S.C. § 2254(a) “[t]he Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person *in custody pursuant to the judgment of a State court* only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” (emphasis added). Federal habeas relief is unavailable where a petitioner “suffers no present restraint from a conviction.” *See Maleng v. Cook*, 490 U.S. 488, 492 (1989). As Lanahan is not in custody under the charges he challenges, his petition shall be dismissed.

When a district court dismisses a habeas petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both “(1) ‘that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right’ and (2) ‘that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.’” *Rouse v. Lee*, 252 F.3d 676, 684 (4th Cir. 2001)

(quoting *Slack v. Daniel*, 529 U.S. 473, 484 (2000)). Lanahan has not met this standard. By separate Order which follows the petition for writ of habeas corpus shall be dismissed and a Certificate of Appealability denied.

May 6, 2016
Date

J. Frederick Motz
J. Frederick Motz
United States District Judge

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